

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

10,427

FILE: B-191551

DATE: June 11, 1979

MATTER OF: Michael J. Badera and Sue Ann Badera

DIGEST: Former Army enlisted members' claim for temporary lodging allowance for their use of temporary lodging in Germany during a 10-day period in 1973, which they first claimed from the Army a year later, may not be allowed since Army records do not contain the documents required by regulations to support the claim, and the claimants are unable to furnish them.

This action is in response to a letter from former Specialist Fourth Class Michael J. Badera appealing our Claims Division's disallowance of his and his wife's (former Specialist Fourth Class Sue Ann Badera) claims for temporary lodging allowance (TLA) incident to their service in the United States Army in Augsburg, Germany.

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We sustain the disallowance of the claim because of the lack of substantiating documents and the overseas commander's determination of the necessity for using temporary lodging required by the applicable regulations.

Mr. and Mrs. Badera claim TLA for the 10-day period of August 9-18, 1973, during which they indicate they were required to live in "tourist/hotel" type accommodations upon their arrival at their duty station, Detachment N, Eckstein, Augsburg, Germany. They say they first applied for TLA for that period in September 1974, over a year after their arrival at Detachment N because previously they were unaware of their entitlement to TLA. They state that at that time the detachment first sergeant checked with the Finance Section, which advised that they were entitled to TLA, and he then forwarded the TLA forms on to the detachment commander for his signature.

Apparently the Baderas did not receive payment and they indicate they applied for TLA for that period again before leaving the Army in November 1974. Mr. Badera indicates that both of these claims and supporting documents were lost by the Army.

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In December 1975, after leaving the Army, they again filed a claim for the TLA which was forwarded to our Claims Division by the Army Finance Center as a doubtful claim because of the lack of supporting documents. In support of their claim the Baderas furnished their signed, notarized statement to the effect that there were no Government quarters available to them, that they stayed in private tourist/hotel accommodations; and the approximate cost of those accommodations. They also furnished a copy of a May 9, 1975 letter to them from the first sergeant, Company B (Eckstein) in which he says the Finance Section sent their requests for TLA to Fort Dix, New Jersey, for further processing on November 11, 1974, because the Baderas' records were no longer available in Germany.

The Army Finance Center and the Fort Dix Finance and Accounting Office were apparently unable to locate the substantiating documentation to support the Baderas' claim. Upon receipt of the Baderas' appeal letter we requested a further search of Army records. We have been advised that the Army Finance Center, after further inquiry to Fort Dix, has been unable to locate any additional information concerning the claim.

Pursuant to 37 U.S.C. 405 (1976), Volume 1, Joint Travel Regulations (1 JTR), paragraph M4303, authorizes TLA for the purpose of "partially reimbursing a member for the more than normal expenses" incurred at hotels or hotel-like accommodations. TLA is authorized upon initial arrival at a permanent duty station outside the United States and pending assignment of Government quarters, or pending completion of arrangements for other permanent living accommodations when Government quarters are not available. Paragraph M4303-2 provides certain conditions under which TLA is payable. Included in these conditions is a determination by the overseas commander that occupancy of temporary lodging is necessary and that Government quarters are not available.

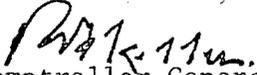
Also necessary to substantiate a claim such as this would be a copy of the permanent change-of-station orders to the overseas station and evidence of the expenses and length of stay in the temporary lodging, such as hotel receipts.

While the Baderas have furnished their personal statement as to the cost and necessity of their temporary lodging and the letter from the detachment first sergeant saying their claim had been sent

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to Fort Dix, that is not sufficient evidence for us to allow their claim. While it is unfortunate that their documentation may have been lost, primary responsibility for furnishing satisfactory evidence to support payment of a claim is upon the claimant. 53 Comp. Gen. 181, 184 (1973) and 31 Comp. Gen. 340 (1952). As is indicated above, although several searches of Army records have been made, the supporting information the Baderas indicate was sent forward in 1974 has not been located.

In these circumstances we have no alternative but to disallow the claim. Accordingly, the action of the Claims Division is sustained.


Deputy Comptroller General
of the United States